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Claims for Indian Depredations in New Mexico. (To accompany bill H.R. no. 376.)

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CLAIMS FOR INDIAN DEPREDACTIONS IN NEW MEXICO.

[To accompany Bill H. R. No. 376.]

MARCH 19, 1860.

Mr. SCOTT, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred House bill No. 194, providing for the examination of Indian depredations in the Territory of New Mexico, ask leave to submit the following report :

That they have had the same under consideration, and find, upon examination of the facts connected with the subject, that a large number of claims, amounting in all to two hundred and forty-four, and which were presented by their respective claimants to the superintendent of Indian affairs of New Mexico as soon as the said claimants were advised that the provisions of the Indian intercourse act were extended over said Territory. The superintendent transmitted the claims and papers accompanying them to the Department of the Interior, where, for a long period of time, they were on file without any action having been taken upon them by said department.

This subject was finally brought to the attention of Congress in the year 1856, and the Secretary of the Interior was directed, by the sixth section of the act of Congress approved August 18, 1856, to cause an investigation to be had of the claims for depredations made by Indians in the Territory of New Mexico and filed in that department, and to report the same to Congress.

On the 11th of May, 1858, the Secretary submitted to Congress the following report, accompanied by the report of the Acting Commissioner upon the claims:

DEPARTMENT OF THE INTERIOR,
May 11, 1858.

SIR: I have the honor to submit herewith, as directed by the sixth section of the act "making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1857," approved August 18, 1856, a report upon claims for depredations by Indians in the Territory of New Mexico, heretofore made and filed in this department.

These claims were investigated under instructions from my predecessor, Hon. R. McClelland, by the late Commissioner of Indian Affairs, but his report was not submitted to this department until the 2d of March, 1857, too late for transmission to the last Congress. The whole subject was subsequently referred, for re-examination, to the Commissioner of Indian Affairs, who, on the 21st ultimo, submitted a report, a copy of which is herewith enclosed, concurring in the conclusions of Mr. Manypenny's report, but suggesting, for reasons therein set forth, the propriety of appointing a commission to examine and adjudicate these claims.

It will be obvious, I think, upon an examination of the abstracts of the evidence heretofore filed in these claims, that this department is not in possession of the information essential to an intelligent decision upon their merits. The testimony is not only meagre in substance and irregular in form, but is presented under such circumstances as to leave the department entirely without the means of judging what weight should be attached to the statements of the witnesses. In view of these facts, and of the large amount that will be required to satisfy these claims, should Congress feel called upon to pay them, I am of opinion that a commission should be sent out to investigate them. Should this be done, it would be desirable that Congress should prescribe such rules to taking testimony as might appear to be necessary to prevent frauds upon the government.

In conclusion, I would state that the claims, so far presented and examined, amount to \$502,986 60, but the department is informally advised that claims to a much larger amount will eventually be presented.

With great respect, your obedient servant,

J. THOMPSON, *Secretary.*

Hon. JAMES L. ORR,

Speaker of the House of Representatives.

The following is the report of the Commissioner of Indian Affairs made to the Secretary of the Interior upon the claims :

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs, April 21, 1858.

SIR : In obedience to your directions of the 25th of July last, I have caused a re-examination to be made of the depredations claims of the citizens of New Mexico, which were sent up to your predecessor by Colonel Manypenny on the 2d of March, 1857, with a report, and I have now the honor to report that the examination then made seems to have been a thorough and careful one, and I see no reason why any change in their conclusions arrived at by him should be made.

In this connexion, I would avail myself of the opportunity to remark, that these matters can never, in my opinion, be adjusted in a manner securing justice to the claimants and preventing fraud upon the government without the intervention of a commission ; and would, therefore, most respectfully suggest for your consideration whether it would not be advisable and proper to recommend to Congress such a course, whereby the parties giving evidence may be brought in immediate

contact with the commissioners, and they be thus enabled to decide what weight should be attached to their statements, as well as have the various other advantages which will readily occur to your mind, of being enabled, from being in person present, to arrive at correct decisions.

The papers submitted by you are herewith returned.

Very respectfully, your obedient servant,

CHARLES E. MIX,
Acting Commissioner.

Hon. J. THOMPSON,
Secretary of the Interior.

[See Ex. Doc. 1st session 35th Congress, vol. 13, No. 123, page 2.]

On the 2d of March your committee addressed a letter to the Commissioner of Indian Affairs, Mr. Greenwood, accompanied by the bill which had been referred to them, and requested his opinion upon two points which were brought to the consideration of the committee by the delegate, Mr. Otero, viz: first, as to the extent to which the government might be bound for the liquidation of the claims under the proclamations of General Kearney; and second, as to how far the treaty of Guadalupe Hidalgo would make it obligatory upon the government to pay said claims. The Commissioner, after expressing his opinion upon the points above referred to, reaffirms the opinion expressed by Commissioner Manypenny, as reiterated by Mr. Mix, when Acting Commissioner, and says: "That the evidence adduced in the cases does not furnish sufficient data upon which correct decisions could be based. And if Congress should decide that these claims should be investigated by the department for the purpose of being paid under the rules now governing, or under such others as may be prescribed, I would recommend that a commission of investigation should be established, to consist of the superintendent of Indian affairs of New Mexico, and of two other persons, to be appointed by the Secretary of the Interior, at such salary as he may deem reasonable and proper. The advantages of such a board are clearly set forth in the document above referred to, and if it should be established, the accompanying form of a bill is respectfully suggested as meeting the requirements."

The committee, therefore, without expressing any opinion as to the amount of these claims, or the justice of the same, because they have not sufficient evidence to do so, and regarding it as difficult, if not impossible, for Congress to do so without full proof in an authentic form in regard thereto, recommend the appointment of the commission, as the cheapest and most effective means of obtaining that information, without which, Congress cannot act advisedly and understandingly in the matter. They therefore report the accompanying bill.